IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 14048 of 2003

Between:
Guggilla Aruna, W/o.Late Balraj Goud,
R/o. Ward No. 2, Kagajnagar, Adilabad District.

..... PETITIONER

AND

1 The Commissioner,
Kagaznagar Municipality, Kagaznagar,
Adilabad District.
2 The Sub- Collector,
Asifabad, Adilabad Dist.

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus: i) declaring the action of the Respondent authorities in not regularising the possession of the Petitioner to the extent of 220 square yards bearing plot No. 180/A in Ward No. 2 of Kagajnagar Municipality in Pursuance of the proceedings in Roc. No. G1/220/1985, dated 26.6.1987 as arbitrary, illegal and violative of Article 14, 21 and 300A of the Constitution of India and Consequently direct occupancy of the petitioner over the extent of 220 square yards in plot No. 180/A, Ward No. 2 of Kagajnagar Municipality, Adilabad District:

Counsel for the Petitioner : MR.A.SUDERSHAN REDDY

Counsel for the Respondent No.1 : MR.R.TIMMA REDDY, SC

Counsel for Respondent No.2 : G.P. for Assignment.

The Court made the following :

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ORDER :

Though interlocutory application is listed for orders, the writ petition is heard finally as a short question would arise for consideration.

The land admeasuring 220 Sq.Yards in Ward No.2 of Kagajnagar was allegedly allotted to one Sri Yaseen Khan under Slum Improvement Programme by proceedings of the Sub-Collector, Asifabad, dated 23-3-1973. Purporting to act as per the resolution of the Municipal Council, Kagajnagar, first respondent issued a notice to the said Yaseen Khan requesting him to pay an amount of Rs.2,200/- for regularizing the occupation. There is some dispute as to whether the said amount is paid or not? Be that as it is, even before a formal order of regularization could be passed, the petitioner's husband herein purchased the said land under registered sale deed dated 28-3-1995. The petitioner also filed a suit being O.S.No.9 of 1999 on the file of the Court of Junior Civil Judge, Sirpur, for injunction. The said suit was dismissed. Alleging that the respondents are trying to dispossess her in spite of the notice issued by first respondent on 26-6-1997 to Mr.Yaseen Khan, the petitioner invoked the jurisdiction of this Court under Article 226 of the Constitution of India. The petitioner prays that respondents be directed to regularize occupation of the petitioner over an extent of 2 2 0 Sq.Yards in Plot No.180/A, Ward No.2 of Kagajnagar Municipality.

A copy of the judgment of the learned Junior Civil Judge passed in O.S.No.9 of 1999, dated 18-2-2000 is annexed to the writ petition. The said suit is filed for permanent injunction. The suit was dismissed which leads to an inference that the petitioner is not in possession of the property. Therefore, this Court is of the considered opinion that having lost the suit, the petitioner again invoked the jurisdiction of this Court under Article 226 of the Constitution of India. The writ petition, therefore, cannot be entertained. However, liberty is given to the petitioner to approach the Municipal authorities, if she is in possession of the property. It is also made clear that if the petitioner is in possession of the property, she may be dispossessed only in

accordance with law after giving notice and opportunity to her.

The writ petition, with the above observation, is dismissed. No costs.

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(V.V.S. RAO, J.)

24-09-2004.
Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1 The Commissioner,
Kagaznagar Municipality, Kagaznagar, Adilabad District.
2 The Sub- Collector, Asifabad, Adilabad Dist.
3. 2CCs to G.P. for Assignment, High Court Buildings, Hyd.
4. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14048 of 2003

24-09-2004.

(Msr)